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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,634	03/16/2004	Masashi Mizutani	4041K-000188	2925
27572 7590 08/21/2007 HARNES, DICKEY & PIERCE, P.L.C. P.O. BOX 828 BLOOMFIELD HILLS, MI 48303			EXAMINER CIRIC, LJILJANA V	
			ART UNIT 3744	PAPER NUMBER
			MAIL DATE 08/21/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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10/801,634 03/16/2004 MIZUTANI

4041K-000188

EXAMINER

CIRIC

ART UNIT	PAPER
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3744

20070817

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

In response to applicant's telephone inquiry made on July 22, 2007 regarding the last Office action, the following corrective action is taken.

The period for reply of THREE (3) MONTHS set in said Office Action is restarted to begin with the mailing date of this letter.

The reference Ito et al. was not correctly cited in the last Office action. The correct citation is shown on the attached PTO-892.

A corrected copy of the last Office Action is also enclosed.

Ljiljana V. Ciric

Ljiljana (Lil) V. Ciric
Primary Examiner
Art Unit: 3744

****CORRECTED****
Office Action Summary

Application No.

10/801,634

Applicant(s)

MIZUTANI, MASASHI

Examiner

Ljiljana (Lil) V. Ciric

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 April 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

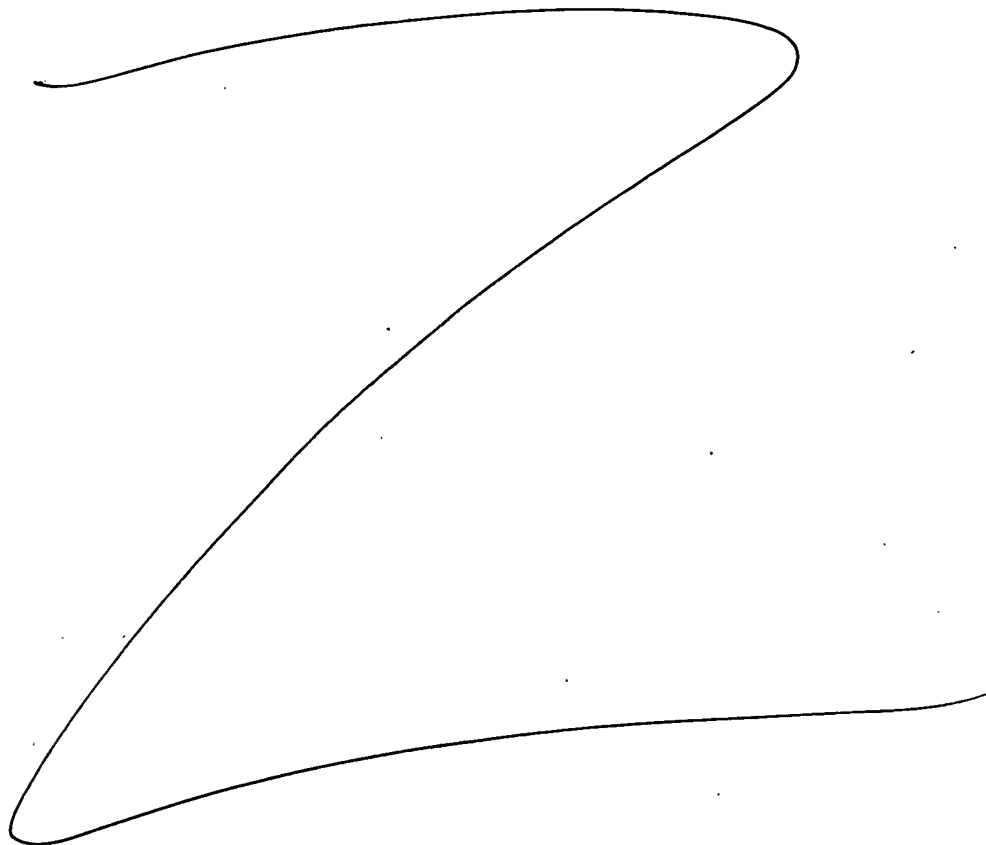
- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. <u>20070722</u> |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Attorney Schmidt telephoned Examiner Ciric to notify her that it appeared that the abovesited Ito et al. reference was erroneously referred to as being "previously of record" in paragraph 13 of the Office action mailed on July 17, 2007. Examiner Ciric noted that the Ito et al. indeed was not previously cited and thus should have been included on the PTO-892 which was mailed on with the Office action on July 17, 2007. Examiner Ciric then said that the Office action would be corrected and remailed in accordance with the standard procedures.



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*** CORRECTED ***
DETAILED ACTION

Response to Amendment

1. This Office action is in response to the reply filed on April 3, 2007.
2. Claims 1 through 6, all as amended either directly or indirectly, are currently pending. All are readable on the elected second species or the embodiment of Figure 6.

Response to Arguments

3. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection presented herein.

Drawings

4. The replacement drawings corresponding to Figures 8 and 9 were received on April 3, 2007. These replacement drawings are hereby approved.
5. Upon reconsideration, the drawings filed on 16 March 2004 are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the following features must be shown or the feature(s) canceled from the claim(s): a device for opening and closing a passage provided with both a small diameter shaft portion and a large diameter shaft portion with a packing member disposed between the shaft and the bearing hole of a case wherein the packing member is further ONLY attached to the small diameter portion of the shaft as recited in claim 2. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing

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should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claim 2 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In particular, there is no support in the originally filed disclosure either by way of description in the originally filed specification or by way of depiction in the originally filed drawings to provide support for the recitation in claim 2 of the packing member which is disposed between the door shaft and the bearing hole as also being attached ONLY to the small diameter shaft portion of the door shaft but NOT to the large diameter shaft portion thereof. Note that since the originally filed

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disclosure shows/describes the small and large diameter shaft portions as being attached to each other, it is inherent that whatever element is attached to either of the small diameter shaft portion or to the large diameter shaft portion is inherently also at least indirectly attached to the other shaft portion.

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 recites that "the packing member is attached to *only* the small diameter shaft portion". However, since the small diameter portion and the large diameter portion of the door shaft are connected to each other, anything (including the packing member) that is attached to the small diameter portion of the shaft will inherently be attached to the large diameter portion of the shaft, at least indirectly. Thus, it is not clear which disclosed structural configuration meets the claim as written, thus rendering indefinite the metes and bounds of protection sought by the claim.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for

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patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

11. Claims 1 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Schaeffer et al (previously of record).

Schaeffer et al. discloses an air passage opening and closing device essentially as claimed, including, for example: a plate-shaped door or blade 34 having a door shaft 80 which becomes a center of rotation; a damper housing or case 30 having a bearing hole in bearing housing 106 as shown in Figure 8, for example, for pivotally holding the door shaft 80; the case or damper housing 30 also having an opening portion or passage in which air flows when the plate-shaped door or blade 34 is rotated into an "open" position; an elastic packing member or o-ring 102 disposed between the door shaft 80 and the bearing hole in bearing housing 106, the elastic packing member or o-ring 102 being attached to at least one of the door shaft and the bearing hole at a position circumferentially spaced from the plate shaped door or blade 34.

The reference thus reads on the claims.

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12. Alternately for claims 1 and 6, claims 1, 3, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Barthelemy et al (previously of record).

Barthelemy et al. discloses an air passage opening and closing device essentially as claimed, including, for example: a plate-shaped door or disc 22 having a door shaft 26 or 34 which becomes a center of rotation; a case 60 and 62 having a bearing hole for pivotally holding the door shaft 26 or 34; the case or damper housing 60 and 62 also having an opening portion or passage in which air flows when the plate-shaped door or disc 22 is rotated into an "open" position; an elastic packing member or vulcanized rubber packing collar 42 or 44 disposed between the door shaft 26 or 34 and the bearing hole, the elastic packing member or vulcanized rubber packing collar 42 or 44 being attached to at least one of the door shaft and the bearing hole at a position circumferentially spaced from the plate shaped door or disc 22 and covering in part both a portion of the side face of the door or disc 22 and a portion of the door shaft 26 or 34 in the circumferential direction.

The reference thus reads on the claims.

13. Alternately for claims 1, 3, and 6, claims 1, 3, 4, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Ito et al.

Ito et al. discloses an air passage opening and closing device essentially as claimed, including, for example: a plate-shaped door body 100 having a door shaft 101 which becomes a center of rotation; a case 11 having a bearing hole for pivotally holding the door shaft 101 as shown in Figure 6 for example; the case 11 also having an opening portion or passage in which air flows when the plate-shaped door 100 is rotated into an "open" position as well as a heating heat exchanger 13 and a cooling heat exchanger 12 arranged therein as shown in Figure 1; an

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elastic packing member comprising link shaft 117 and its elastically deformable latch portions 119 which are disposed between the door shaft 101 and the bearing hole, the elastic packing member being attached to at least one of the door shaft 101 and the bearing hole at a position circumferentially spaced from the plate shaped door 100 and covering in part both a portion of the side face of the door 100 and a portion of the door shaft 101 in the circumferential direction.

The reference thus reads on the claims.

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ito et al. (previously of record) in view of Wakamatu et al.

As discussed in greater detail above, Ito et al. discloses an air passage opening and closing device essentially as claimed, including a plate shaped door butterfly door 100 which is usable as a mode door (i.e., face or defroster or foot door) of the vehicular air conditioning case 11 [see column 4, lines 3-5]. While Ito et al. fails to disclose the inventive butterfly door 100 as being usable as an air mixing door 15 for adjusting the ratio of the volumes of cooled and heated air, it is known in the art and taught by Wakamatu et al., for example, to use a single butterfly-type door configuration for any and all of the air mixing door, the inside/outside switching door, and the face/defroster/foot doors in a vehicular air conditioning case. Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the vehicular air

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conditioner of Ito et al. by using the same door configuration for the air mixing door as for the mode doors as taught by Wakamatu et al. in order to, for example, simplify the design and to facilitate the manufacturability of the same.

16. The non-application of art against claim 2 should not be construed as an indication of allowable subject matter, but rather as an indication that the patentability of the claim could not be established with any certainty due to the problems under 35 U.S.C. 112, first and second paragraphs, as described in greater detail above.

Conclusion

17. The additional prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

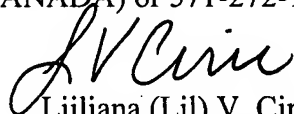
18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ljiljana (Lil) V. Ciric whose telephone number is 571-272-4909. The examiner works a flexible schedule, but can normally be reached weekdays between 10:30 a.m. and 6:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl J. Tyler can be reached on 571-272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR

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system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Ljiljana (Lil) V. Ciric
Primary Examiner
Art Unit 3744